

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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PHILLIP J. LYONS,)
Plaintiff,) 3:07-cv-00460-LRH (RAM)
v.)
CONNIE BISBEE, et al.,) O R D E R
Defendants.)

)

Before this court is Report and Recommendations of U.S. Magistrate Robert A. McQuaid, Jr. (#108¹) entered on February 10, 2009, recommending granting in part and denying in part Defendants' Partial Motion for Judgment on the Pleadings (#30) filed on August 26, 2008. Plaintiff filed a Motion to Withhold Any Decision on Magistrate Judge's Report and Recommendation #107 and #108 Pending Receipt of Plaintiff's Objections (#110) on March 4, 2009, and his Objections to Magistrate Judge's Report and Recommendation (#112) on March 4, 2009. Defendants filed their Motion for Enlargement of Time to Respond to Plaintiff's Objection to the Magistrate Judge's Report and Recommendation [#108] (#114) on March 20, 2009, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 1B 3-2 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the objections

¹Refers to court's docket number.

1 raised by the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record
2 pursuant to 28 U.S.C. § 636 (b) (1) and Local Rule IB 3-2, and concludes that Plaintiff's objections
3 are a reiteration of arguments previously made. No opposition need be filed by Defendants. The Court
4 determines that the Magistrate Judge's Report and Recommendation (#108) entered on February 10,
5 2009, should be adopted and accepted.

6 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation
7 (#108) entered on February 10, 2009, is adopted and accepted, and Defendants' Partial Motion for
8 Judgment on the Pleadings (#30) is granted in part and denied in part as follows:

- 9 1. The motions to join by Defendants Bayer, Vieth, and Goodson (## 43, 76 and 83)
10 are GRANTED;
- 11 2. Judgment on Counts I and II based on the statute of limitations is DENIED;
- 12 3. Judgment on Counts IV, V, and VI for Defendants Bisbee, Goodson, Vieth, and
13 Salling dismissing the claims for money damages and injunctive relief is
14 GRANTED;
- 15 4. Judgment on the claim based on the Fourteenth Amendment Equal Protection
16 Clause in Count VI is DENIED;
- 17 5. Judgment on Counts IV, V, and VII dismissing the claims based on the Fourteenth
18 Amendment due Process Clause of the U.S. Constitution is GRANTED;
- 19 6. Judgment on Counts V and VII dismissing the claims based on the Ex Post Facto
20 and Double Jeopardy Clauses of the U.S. Constitution is GRANTED;
- 21 7. Judgment regarding dismissal of the Eighth Amendment claims in Counts V and
22 VII is GRANTED; and
- 23 8. Judgment on Count XII dismissing the claim in its entirety is GRANTED.

24 IT IS FURTHER ORDERED that Plaintiff's Motion to Withhold Any Decision on
25 Magistrate Judge's Report and Recommendation #107 and #108 Pending Receipt of Plaintiff's
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1 Objections (#110) is DENIED AS MOOT.

2 IT IS FURTHER ORDERED that Defendants' Motion for Enlargement of Time to Respond
3 to Plaintiff's objection to the Magistrate Judge's Report and Recommendation [#108] (#114) is
4 DENIED AS MOOT.

5 IT IS SO ORDERED.

6 DATED this 25th day of March, 2009.



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9 LARRY R. HICKS
10 UNITED STATES DISTRICT JUDGE
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